

37

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAIIAN ELECTRIC COMPANY, INC.)
For Approval of Rate Increases)
And Revised Rate Schedules and)
Rules)
_____)

DOCKET NO. 2006-0386

ORDER NO. 23366

Filed April 13, 2007
At 11 o'clock A.M.

Bruce K. Kane
for Chief Clerk of the Commission

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Docket No. 2006-0386

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ORDER

By this Order, the commission grants the Motion to Intervene and Become a Party filed by the DEPARTMENT OF THE NAVY on behalf of the DEPARTMENT OF DEFENSE ("DOD") on February 20, 2007 ("DOD's Motion"), and denies the Motion to Intervene filed by LIFE OF THE LAND ("LOL") on January 5, 2007 ("LOL's Motion").

I.

Background

On December 22, 2006, HAWAIIAN ELECTRIC COMPANY, INC. ("HECO") filed an application for approval of rate increases and revised rate schedules and rules in which HECO seeks a general rate increase of approximately \$99,556,000, or 7.1%, over revenues at current effective rates.¹ The requested increase is

¹See HECO's Application for Approval of Rate Increases and Revised Rate Schedules and Rules, and Certificate of Service, filed on December 22, 2006 ("Application"). Revenues at current effective rates include revenues from the interim rate increase approved by the commission in Interim Decision and Order No. 22050, filed in HECO's 2005 test year rate case, Docket No. 04-0113. If revenues from the interim rate increase are excluded, the requested relief over revenues at present rates is estimated to be \$151,505,000.

based on estimated total revenue requirements of \$1,501,782,000 for the normalized 2007 test year (based on August 2006 fuel oil and purchased energy prices, and an 8.92% rate of return on HECO's average rate base). HECO is also proposing several new rate designs and rate schedules, including an inclining rate block structure for residential customers, optional time-of-use rates, and standby service rates.²

On January 5, 2007, LOL filed its Motion to Intervene in this docket, and on February 20, 2007, DOD filed its Motion to Intervene and Become a Party in this docket.³

On January 18, 2007, HECO filed a Memorandum in Opposition to LOL's Motion ("HECO's Opposition Memo"),⁴ in which HECO opposed LOL's Motion on the following grounds: (1) LOL has

²HECO served copies of the Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this docket, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62.

³Pursuant to HAR § 6-61-57, a motion to intervene or participate must be filed no later than ten days after the last public hearing held pursuant to a published notice of hearing. On March 6, 2007, the commission held a public hearing on the Application at the Prince David Kawanānākoa Middle School Cafeteria in Honolulu, Hawaii. Thus, the deadline to move to intervene or participate in this docket was on March 16, 2007, and both LOL's Motion and DOD's Motion were timely filed.

⁴Based on the filing date of LOL's Motion (January 5, 2007), the filing date of HECO's Opposition Memo (January 18, 2007) appears to exceed the five-day time requirement for filing oppositions to motions under HAR § 6-61-41(c). HECO, however, stated in its Opposition Memo that, although the Certificate of Service accompanying LOL's Motion maintains that LOL's Motion was hand-delivered to HECO and its attorneys on January 5, 2007, HECO and its attorneys were served with LOL's Motion via U.S. Mail in an envelope with a January 8, 2007 postmark. See HECO's Opposition Memorandum, at 1 n.1. Based on HECO's representations, the commission will construe HECO's Opposition Memorandum as timely filed.

not shown that it has a statutory or constitutional right to intervene as a party in this proceeding; (2) any general interest that LOL may have regarding general rate case issues can be adequately represented by the Consumer Advocate; (3) LOL has not demonstrated that its intervention as a party would contribute to the development of a sound record regarding the reasonableness of HECO's proposed rate increase; (4) LOL's participation could unduly delay the proceedings and unreasonably broaden the issues presented in this docket, as the issues that LOL seeks to raise address policy concerns (e.g., the continued use of fossil fuels and the rate of shift to renewable energy), which are not pertinent to general rate case issues, and would be more appropriately addressed in other proceedings; and (5) LOL has not shown that it should be granted full-party status in this proceeding, given its limited interest in the primary issues in a general rate increase proceeding (i.e., revenue requirement issues).

No oppositions were filed in response to DOD's Motion.

II.

Discussion

HAR § 6-61-55 sets forth the requirements for intervention in commission proceedings. It states, in relevant part:

- (a) A person may make an application to intervene and become a party by filing a timely written motion in accordance with sections 6-61-15 to 6-61-24, section 6-61-41, and section 6-61-57, stating the facts and reasons for the

proposed intervention and the position and interest of the applicant.

(b) The motion shall make reference to:

- (1) The nature of the applicant's statutory or other right to participate in the hearing;
- (2) The nature and extent of the applicant's property, financial, and other interest in the pending matter;
- (3) The effect of the pending order as to the applicant's interest;
- (4) The other means available whereby the applicant's interest may be protected;
- (5) The extent to which the applicant's interest will not be represented by existing parties;
- (6) The extent to which the applicant's participation can assist in the development of a sound record;
- (7) The extent to which the applicant's participation will broaden the issues or delay the proceeding;
- (8) The extent to which the applicant's interest in the proceeding differs from that of the general public; and
- (9) Whether the applicant's position is in support of or in opposition to the relief sought.

HAR § 6-61-55(a) and (b). HAR § 6-61-55(b) further states that "[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented."⁵

⁵See In re Application of Hawaiian Elec. Co., Inc., 56 Haw. 260, 262, 535 P.2d 1102, 1104 (1975) (intervention "is not a

A.

DOD's Motion

DOD states that it maintains numerous military installations within the State that obtain and use electric services from HECO. It further asserts that it is one of the largest purchasers of electric services in the State, has participated in other dockets related to rate increases and rate design (such as the Integrated Resource Planning ("IRP") and Demand-Side Managements dockets), and has a "crucial and strategic interest in securing electricity at the lowest but fair cost."⁶ Moreover, DOD suggests that its intervention would serve the public interest in that it expends funds on behalf of the taxpayers of the United States in the furtherance of the goals and objectives of the federal government.

Upon review, the commission finds that DOD has a significant interest in the matters of this docket. Issues relating to the reasonableness of the rates proposed to be charged by HECO appear to be crucial to the national defense interests represented by DOD. The commission therefore finds that DOD has substantial interests that are reasonably pertinent to the matters raised in this docket, and that its intervention will not broaden the issues or unduly delay the proceedings. Accordingly, the commission concludes that DOD's Motion should be granted.

matter of right but a matter resting within the sound discretion of the commission").

⁶DOD's Motion, at 2.

B.

LOL's Motion

LOL is a non-profit Hawaii-based organization that represents environmental interests. In particular, LOL supports "the increased use of renewable energy; the increased reliance on indigenous, non-geothermal fuels; decreasing the footprint of energy facilities; minimizing harmful environmental impacts (water, land, air, pollution, aesthetics); minimizing harmful cultural impacts; increasing the use of electronic (non-tree) filings; and opening up the governmental process."⁷

LOL appears to be primarily concerned with three issues in this docket: (1) the ECAC; (2) residential time-of-use rates; and (3) residential inclining block rates. LOL states that, if the commission decides to bifurcate these issues from HECO's proposed rate increase, as it did in Docket No. 04-0113,⁸ then LOL's Motion should be considered only a motion to intervene on the foregoing three issues. Regarding its interests in these issues, LOL represents that it was a party to a docket in the 1970s in which residential inclining block rates were debated. Moreover, regarding ECAC, LOL argues that "[t]he current [ECAC] is widely seen as a utility impediment to switching to more

⁷LOL's Motion, at 3.

⁸By Order No. 21698, filed on March 16, 2005, in Docket No. 04-0113, HECO's 2005 test year rate case, the commission bifurcated HECO's proposed rate increase (Docket No. 04-0113) from the statewide energy efficiency docket (Docket No. 05-0069), and allowed intervention to LOL only in the energy efficiency docket.

renewable energy."⁹ Overall, LOL intends to "present a proactive case . . . which will provide to the Commission alternate scenarios that focus on faster reduction in fossil fuel use and more significant reductions in greenhouse gas emissions."¹⁰

Upon review, the commission finds that LOL's stated interests and specialized knowledge in promoting sustainable policies, increasing the use of renewable energy, and reducing fossil fuel use and greenhouse gas emissions, are not reasonably pertinent to HECO's request for a general rate increase to justify intervention in this proceeding.¹¹ In particular, the commission finds that the two issues of residential time-of-use rates and residential inclining block rates are principally rate design issues for which LOL has not sufficiently shown any specialized interest or knowledge that would justify intervenor status in this proceeding. As to the ECAC, although the commission must now consider under Act 162, Session Laws of Hawaii 2006 ("Act 162") whether HECO's proposed ECAC is designed to, among other things, "[p]rovide the public utility with

⁹LOL's Motion, at 2.

¹⁰Id. at 5.

¹¹As the commission noted in Order No. 23097, filed on October 27, 2006, in Docket No. 2006-0431 (Power Outage Investigation): "LOL's involvement in various commission proceedings, including Docket Nos. 03-0371 (Distributed Generation), 03-0417 (East Oahu Transmission Project), 05-0069 (Energy Efficiency), and 05-0145 (Campbell Industrial Park Generating Station), to name a few, indicates that there are sufficient other means for LOL to protect its interests[.]" Order No. 23097, at 10. In addition, the commission recently named LOL as a party in the HECO IRP-4 docket. See Order No. 23328, filed on March 29, 2007, in Docket No. 2007-0084.

sufficient incentive to reasonably manage or lower its fuel costs and encourage greater use of renewable energy,"¹² the commission finds that the Consumer Advocate can adequately represent LOL's interests and develop a sound record on this issue.¹³ Accordingly, for all of the above reasons, the commission concludes that LOL's Motion should be denied.

III.

Orders

THE COMMISSION ORDERS:

1. DOD's Motion is granted.
2. LOL's Motion is denied.

DONE at Honolulu, Hawaii APR 13 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Kaiulani Kidani Shinsato
Kaiulani Kidani Shinsato
Commission Counsel

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¹²Act 162, codified as HRS § 269-16(g)(2).

¹³Pursuant to HRS § 269-54(c), the Consumer Advocate "shall consider the long-term benefits of renewable resources in the consumer advocate's role as consumer advocate."

CERTIFICATE OF SERVICE

I hereby certify that I have on this date served a copy of the foregoing Order No. 23366 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Certificate of Service
Page 2

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for Karen Higashi

DATED: APR 13 2007